

Amendment No. 7 to SB0519

Massey
Signature of Sponsor

AMEND Senate Bill No. 519*

House Bill No. 568

by adding the following language as a preamble between the caption and the enacting clause:

WHEREAS, the "Tennessee Retail Pet Store Consumer Protection Act" provides health warranty guarantees to consumers that purchase dogs from retail pet stores in Tennessee; and

WHEREAS, it is the intent of the "Tennessee Retail Pet Store Consumer Protection Act" to provide protection to both companion animals and consumers that buy dogs from retail pet stores in Tennessee; and

WHEREAS, it is the intent of the General Assembly to preempt any local ordinance or resolution adopted to regulate the sale, delivery, barter, auction, broker, or transfer of a companion animal to a person from a retail pet store; and

WHEREAS, it is the intent of the General Assembly to clarify that current and future federal, state, and local laws pertaining to animal welfare, animal cruelty, animal protection, retail pet store zoning, and retail pet store permitting that do not ban a retail pet store from selling dogs and cats as sourced by the retail pet store to the public, are to be enforced and not affected by the "Tennessee Retail Pet Store Consumer Protection Act"; now, therefore,

AND FURTHER AMEND by deleting 44-17-803(b) in Section 1 and substituting the following:

(b)

(1) Except as otherwise provided under this part, if, within fourteen (14) days immediately following the sale of a dog by a retail pet store, a veterinarian of the purchaser's choosing makes a written determination that the dog was unfit for purchase due to illness, a congenital malformation that adversely affects the dog's health, or the presence of symptoms of a contagious or infectious disease,

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the retail pet store, in addition to any other warranty provided to the purchaser, shall provide the purchaser with the purchaser's choice of one (1) of the following remedies:

(A) The purchaser may return the dog to the retail pet store for a full refund of the purchase price and, subject to subdivision (b)(2), reimbursement of any reasonable veterinary expenses incurred to diagnose the returned dog's condition;

(B) The purchaser may exchange the dog for another dog of equivalent value as determined by the retail pet store's asking price and, subject to subdivision (b)(2), reimbursement of any reasonable veterinary expenses incurred to diagnose the exchanged dog's condition;

(C) The purchaser may retain the dog and, subject to subdivision (b)(2), receive reimbursement of reasonable veterinary expenses incurred to diagnose or treat the dog; or

(D) If the dog has died, the purchaser may:

(i) Receive from the retail pet store a full refund of the purchase price and, subject to subdivision (b)(2), reimbursement of any reasonable veterinary expenses incurred to diagnose the deceased dog's condition; or

(ii) Receive from the retail pet store another dog of equivalent value as determined by the retail pet store's asking price and, subject to subdivision (b)(2), reimbursement of any

reasonable veterinary expenses incurred to diagnose the deceased dog's condition.

(2) The total amount of return or replacement costs, reasonable veterinary expenses, and all costs incurred in medical care that may be claimed for reimbursement under subdivisions (b)(1)(A)-(D) shall not exceed one hundred fifty percent (150%) of the dog's purchase price.

(3) For purposes of determining the reasonableness of the cost of veterinary services for which reimbursement must be made under subdivisions (b)(1)(A)-(D), the cost of such services will be deemed reasonable if the cost is substantially similar to the cost of the same services rendered by other veterinarians in close geographic proximity to the treating veterinarian.

(4) For the purpose of determining the amount of reimbursement that must be made under subdivisions (b)(1)(A)-(D), the reimbursement shall not include the costs of initial veterinary examination or diagnostic fees that are not directly related to the veterinarian's determination that the dog is unfit for purchase.

AND FURTHER AMEND by deleting 44-17-803(d)-(f) in Section 1 and substituting the following:

(d) A retail pet store must provide a remedy, as required by subdivisions (b)(1)(A)-(D), to a person who:

(1) Purchased a dog from the retail pet store and makes a request for such remedy;

(2) Provides the retail pet store with a veterinarian's statement that contains the information required by subsection (c); provided, that the veterinarian's statement must be:

(A) Based on an examination of the dog that occurred within fourteen (14) days of the dog's purchase; and

(B) Delivered to the retail pet store within three (3) business days immediately following the purchaser's receipt of the veterinarian's statement;

(3) Provides the retail pet store with an itemized bill of charges for examination and testing that resulted in a diagnosis disclosed under subdivision (c)(7), and treatment disclosed under subdivision (c)(9); and

(4) Provides the retail pet store with the original copy of the written notice or any document containing the written notice that was provided to the purchaser under subsection (a).

(e) Except as provided in subsection (f) and § 44-17-804, a remedy, as required by subdivisions (b)(1)(A)-(D), must be provided within ten (10) business days immediately following the retail pet store's receipt of the purchaser's timely request accompanied by the documentation required under subdivisions (d)(2)-(4).

(f)

(1) A retail pet store may contest a request for a remedy under subdivisions (b)(1)(A)-(D), made by a purchaser under this section by requesting that the purchaser produce the dog for examination by a veterinarian designated by the retail pet store. If the purchaser does not produce the dog for examination by a veterinarian designated by the retail pet store within fourteen (14) days of being requested to do so, the purchaser forfeits any right to claim a remedy under subdivisions (b)(1)(A)-(D).

(2) If a dog's purchaser and the retail pet store are unable to resolve a request for a remedy under subdivisions (b)(1)(A)-(D) within ten (10) business days immediately following receipt of the dog for an examination by a veterinarian designated by the retail pet store, the purchaser may initiate a civil

action for a remedy under subdivisions (b)(1)(A)-(D) in a court of competent jurisdiction.

AND FURTHER AMEND by deleting 44-17-805 from Section 1 and substituting instead the following:

44-17-805.

(a) The general assembly, by enacting this part, intends to preempt any local ordinance or resolution adopted to regulate the sale, delivery, barter, auction, broker, or transfer of a companion animal to a person from a retail pet store. No county or municipality may adopt an ordinance or resolution that regulates or prohibits any conduct in the area covered by this part. No local governmental entity may enforce an ordinance or resolution that regulates or prohibits any conduct in the area covered by this part.

(b) All counties, municipalities, and local government agencies shall retain authorization to adopt and enforce ordinances, resolutions, and regulations pertaining to animal cruelty, animal welfare, animal protection, retail pet store zoning, and retail pet store permitting that do not prohibit a retail pet store from selling companion animals as sourced by the retail pet store to the public.